

19PE-CC00278

Electronically Filed - Pemiscot - August 26, 2019 - 03:38 PM

IN THE CIRCUIT COURT OF PEMISCOT COUNTY, MISSOURI
DIVISION I

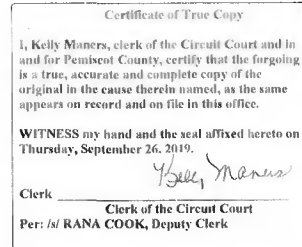
BOBBY DAVIS,

Plaintiff,

vs.

JOHN ROBERT SMITH and
USA TRUCK, INC.

Defendant.



COURT SEAL OF



PEMISCOT COUNTY

Case No.

PETITION

COMES NOW the Plaintiff, Bobby Davis, by and through counsel, and for his cause of action against Defendant John Robert Smith states as follows:

I. PARTIES

1. Bobby Davis is an adult resident of Portageville, New Madrid County, Missouri.
2. Defendant John Robert Smith is an adult resident of Lebanon, Boone County, Indiana, and may be served with process of this Court by serving copies of the Summons and Petition on said Defendant at the following address:

Mr. John Robert Smith
3887 North US Hwy 52
Lebanon, Indiana 46052

3. Defendant USA Truck, Inc. is a foreign corporation organized and existing under the laws of the State of Arkansas with its principal place of business in Van Buren, Arkansas. The Defendant may be served with process of this Court by serving copies of the Summons and Complaint on said Defendant at the following address:

USA Truck, Inc.
3200 Industrial Park Road
Van Buren, Arkansas 72956

EXHIBIT G

4. This Court has jurisdiction over the parties and the Plaintiff's cause of action, and venue is proper in the Circuit Court of Pemiscot County, Missouri.

II. FACTS

5. On or about January 12, 2018, at approximately 9:15 a.m., Plaintiff Bobby Davis operated a 2006 Ford Explorer southbound on Interstate 55 in Pemiscot County, Missouri. Defendant John Robert Smith operated a 2016 International Harvester Conventional in a southbound direction on Interstate 55 in Pemiscot County, Missouri.

6. At said time, Defendant John Robert Smith operated a 2016 International Harvester conventional tractor and trailer operated under the authority by USA Truck, Inc., U.S. Department of Transportation Motor Carrier No. MC-161412.

7. At said time and place, Defendant John Robert Smith failed to bring his tractor-trailer to a stop, violently striking the rear of the stationary vehicle driven by Plaintiff Davis, and the force of the impact forced Plaintiff's vehicle off the right side of the interstate.

9. At said time and place, and at all times relevant hereto, Defendant John Robert Smith was an employee, agent and/or servant of Defendant USA Truck, Inc. acting in the ordinary course and scope of his employment and agency.

III. CAUSE OF ACTION – NEGLIGENCE

10. The actions of Defendant John Robert Smith, properly imputed to Defendant USA Truck, Inc., constitute negligence, said negligence including but not limited to the following:

- a. Defendant Smith operated his vehicle at an excessive speed;
- b. Defendant Smith failed to keep a careful lookout;

c. Defendant Smith failed to maintain proper control of his vehicle for the circumstances then and there existing;

d. Defendant Smith failed to yield to stationary traffic when he had adequate warning and notice of the stopped traffic;

e. Defendant Smith permitted his tractor-trailer to collide with the rear of the vehicle in which Plaintiff was the driver.

f. Defendant Smith failed to use ordinary care in the operation of his vehicle under the circumstances then and there existing;

g. Defendant Smith knew, or by the exercise of the highest degree of care should have known, that a collision was likely, and failed to take evasive actions in such time as to avoid the collision, but failed to do so;

h. Defendant Smith failed to exercise the requisite degree of care and precaution necessary to avoid collision with the vehicle in front of him; and

i. Defendant Smith failed to yield the right-of-way to the stationary vehicles.

11. As a direct and proximate result of the negligence of Defendant John Robert Smith properly imputed to Defendant USA Truck, Inc., Plaintiff Bobby Davis sustained injuries to his neck and back, and to his body as a whole, and has suffered, and will continue to suffer, permanent and debilitating injuries, pain and suffering, economic damages in the form of lost income, and the loss of enjoyment of his everyday living.

WHEREFORE, PREMISES CONSIDERED, Plaintiff Bobby Davis prays that this Court enter judgment against Defendant John Robert Smith and Defendant USA Truck, Inc., jointly and severally, for such damages as are fair and reasonable to compensate Plaintiff

Bobby Davis for his injuries and damages, together with all costs of court; and for such other and further relief as may be just and proper.

DEMAND FOR JURY TRIAL

COME NOW the Plaintiff, Bobby Davis, and pursuant to Rule 69.01 of the Missouri Rules of Civil Procedure hereby demands a trial by jury of any and all issues so triable.

Respectfully submitted,

LAW OFFICE OF
WENDELL L. HOSKINS II
404 Ward Avenue
Post Office Box 1115
Caruthersville, Missouri 63830
Phone: 573-333-2600
Fax: 573-333-2041
Wendell@WendellHoskins.com

/s/ Wendell L. Hoskins II
WENDELL L. HOSKINS II
Missouri Bar No. 44671
Attorney for Plaintiff



IN THE 34TH JUDICIAL CIRCUIT, PEMISCOT COUNTY, MISSOURI

Judge or Division: WILLIAM EDWARD REEVES	Case Number: 19PE-CC00278
Plaintiff/Petitioner: BOBBY DAVIS	Plaintiff's/Petitioner's Attorney/Address: WENDELL LOUIS HOSKINS II 404 WARD PO BOX 1115 CARUTHERSVILLE, MO 63830
Defendant/Respondent: JOHN R SMITH & USA TRUCK, INC.	Court Address: Pemiscot Court House 610 Ward Avenue P.O. Box 34 CARUTHERSVILLE, MO 63830
Nature of Suit: CC Pers Injury-Vehicular	

(Date File Stamp)

Summons for Personal Service Outside the State of Missouri
(Except Attachment Action)

The State of Missouri to: JOHN R SMITH
Alias:

3887 NORTH US HWY 52
LEBANON, IN 46052

COURT SEAL OF

PEMISCOT COUNTY

You are summoned to appear before this court and to file your pleading to the petition, copy of which is attached, and to serve a copy of your pleading upon the attorney for the plaintiff/petitioner at the above address all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to file your pleading, judgment by default will be taken against you for the relief demanded in this action.

08/27/2019

Belly Marcus

Date Clerk

Further Information:

Officer's or Server's Affidavit of Service

I certify that:

- I am authorized to serve process in civil actions within the state or territory where the above summons was served.
- My official title is _____ of _____ County, _____ (state).
- I have served the above summons by: (check one)
 - ☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.
 - ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with _____, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.
 - ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).
 - ☐ other: _____

Served at _____ (address)
in _____ County, _____ (state), on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Subscribed and sworn to before me this _____ (day) _____ (month) _____ (year).

I am: (check one)

- ☐ the clerk of the court of which affiant is an officer.
- ☐ the judge of the court of which affiant is an officer.
- ☐ authorized to administer oaths in the state in which the affiant served the above summons. (use for out-of-state officer)
- ☐ authorized to administer oaths. (use for court-appointed server)

(Seal)

Signature and Title

Service Fees

Summons \$ _____

Non Est \$ _____

Mileage \$ _____ (_____ miles @ \$ _____ per mile)

Total \$ _____

See the following page for directions to officer making return on service of summons.

Directions to Officer Making Return on Service of Summons

A copy of the summons and a copy of the motion must be served on each defendant/respondent. If any defendant/respondent refuses to receive the copy of the summons and motion when offered, the return shall be prepared accordingly so as to show the offer of the officer to deliver the summons and motion and the defendant's/respondent's refusal to receive the same.

Service shall be made: (1) On Individual. On an individual, including an infant or incompetent person not having a legally appointed guardian, by delivering a copy of the summons and motion to the individual personally or by leaving a copy of the summons and motion at the individual's dwelling house or usual place of abode with some person of the family over 15 years of age who permanently resides with the defendant/respondent, or by delivering a copy of the summons and petition to an agent authorized by appointment or required by law to receive service of process; (2) On Guardian. On an infant or incompetent person who has a legally appointed guardian, by delivering a copy of the summons and motion to the guardian personally; (3) On Corporation, Partnership or Other Unincorporated Association. On a corporation, partnership or unincorporated association, by delivering a copy of the summons and motion to an officer, partner, or managing or general agent, or by leaving the copies at any business office of the defendant/respondent with the person having charge thereof or by delivering copies to its registered agent or to any other agent authorized by appointment or required by law to receive service of process; (4) On Public or Quasi-Public Corporation or Body. Upon a public, municipal, governmental or quasi-public corporation or body in the case of a county, to the mayor or city clerk or city attorney in the case of a city, to the chief executive officer in the case of any public, municipal, governmental, or quasi-public corporation or body or to any person otherwise lawfully so designated.

Service may be made by an officer or deputy authorized by law to serve process in civil actions within the state or territory where such service is made.

Service may be made in any state or territory of the United States. If served in a territory, substitute the word "territory" for the word "state."

The office making the service must swear an affidavit before the clerk, deputy clerk, or judge of the court of which the person is an officer or other person authorized to administer oaths. This affidavit must state the time, place, and manner of service, the official character of the affiant, and the affiant's authority to serve process in civil actions within the state or territory where service is made.

Service must be made less than 10 days nor more than 30 days from the date the defendant/respondent is to appear in court. The return should be made promptly, and in any event so that it will reach the Missouri court within 30 days after service.

Certificate of True Copy

I, Kelly Maners, clerk of the Circuit Court and in and for Pemiscot County, certify that the forgoing is a true, accurate and complete copy of the original in the cause therein named, as the same appears on record and on file in this office.

WITNESS my hand and the seal affixed hereto on Thursday, September 26, 2019.

Clerk

Kelly Maners
Clerk of the Circuit Court

Per: /s/ RANA COOK, Deputy Clerk

COURT SEAL OF



PEMISCOT COUNTY



IN THE 34TH JUDICIAL CIRCUIT, PEMISCOT COUNTY, MISSOURI

Judge or Division: WILLIAM EDWARD REEVES	Case Number: 19PE-CC00278
Plaintiff/Petitioner: BOBBY DAVIS	Plaintiff's/Petitioner's Attorney/Address: WENDELL LOUIS HOSKINS II 404 WARD PO BOX 1115 CARUTHERSVILLE, MO 63830
Defendant/Respondent: JOHN R SMITH & USA TRUCK, INC.	Court Address: Pemiscot Court House 610 Ward Avenue P.O. Box 34 CARUTHERSVILLE, MO 63830
Nature of Suit: CC Pers Injury-Vehicular	

(Date File Stamp)

Summons for Personal Service Outside the State of Missouri
(Except Attachment Action)

The State of Missouri to: USA TRUCK, INC.
Alias:
3200 INDUSTRIAL PARK ROAD
VAN BUREN, AR 72956

COURT SEAL OF



PEMISCOT COUNTY

You are summoned to appear before this court and to file your pleading to the petition, copy of which is attached, and to serve a copy of your pleading upon the attorney for the plaintiff/petitioner at the above address all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to file your pleading, judgment by default will be taken against you for the relief demanded in this action.

08/27/2019

Date

Clerk

Further Information:

Officer's or Server's Affidavit of Service

I certify that:

- I am authorized to serve process in civil actions within the state or territory where the above summons was served.
- My official title is _____ of _____ County, _____ (state).
- I have served the above summons by: (check one)
 - ☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.
 - ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with _____, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.
 - ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).
 - ☐ other: _____

Served at _____ (address)
in _____ County, _____ (state), on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Subscribed and sworn to before me this _____ (day) _____ (month) _____ (year).

I am: (check one)

- ☐ the clerk of the court of which affiant is an officer.
- ☐ the judge of the court of which affiant is an officer.
- ☐ authorized to administer oaths in the state in which the affiant served the above summons. (use for out-of-state officer)
- ☐ authorized to administer oaths. (use for court-appointed server)

(Seal)

Signature and Title

Service Fees

Summons \$ _____
Non Est \$ _____
Mileage \$ _____ (_____ miles @ \$ _____ per mile)
Total \$ _____

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Service shall be made: (1) On Individual. On an individual, including an infant or incompetent person not having a legally appointed guardian, by delivering a copy of the summons and motion to the individual personally or by leaving a copy of the summons and motion at the individual's dwelling house or usual place of abode with some person of the family over 15 years of age who permanently resides with the defendant/respondent, or by delivering a copy of the summons and petition to an agent authorized by appointment or required by law to receive service of process; (2) On Guardian. On an infant or incompetent person who has a legally appointed guardian, by delivering a copy of the summons and motion to the guardian personally; (3) On Corporation, Partnership or Other Unincorporated Association. On a corporation, partnership or unincorporated association, by delivering a copy of the summons and motion to an officer, partner, or managing or general agent, or by leaving the copies at any business office of the defendant/respondent with the person having charge thereof or by delivering copies to its registered agent or to any other agent authorized by appointment or required by law to receive service of process; (4) On Public or Quasi-Public Corporation or Body. Upon a public, municipal, governmental or quasi-public corporation or body in the case of a county, to the mayor or city clerk or city attorney in the case of a city, to the chief executive officer in the case of any public, municipal, governmental, or quasi-public corporation or body or to any person otherwise lawfully so designated.

Service may be made by an officer or deputy authorized by law to serve process in civil actions within the state or territory where such service is made.

Service may be made in any state or territory of the United States. If served in a territory, substitute the word "territory" for the word "state."

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Certificate of True Copy

I, Kelly Maners, clerk of the Circuit Court and in and for Pemiscot County, certify that the forgoing is a true, accurate and complete copy of the original in the cause therein named, as the same appears on record and on file in this office.

WITNESS my hand and the seal affixed hereto on Thursday, September 26, 2019.

Clerk

Kelly Maners
Clerk of the Circuit Court

Per: /s/ RANA COOK, Deputy Clerk

COURT SEAL OF



PEMISCOT COUNTY

66111

**Boone County Sheriffs Office**

Court Paper Report

1905 Indianapolis Avenue Lebanon, IN 46052

Phone: (765) 482 - 1412 Fax: (765) 483 - 3370

ID 66111	Type Summons	Sub Type Civil	Issuing State Missouri	Issuing County PEMISCOT	Agency Boone County Sheriffs Office	Agency Only No
Plaintiff BOBBY DAVIS		Filed Date 08/27/2019	Received Date 09/09/2019	Service Expiration Date	Received From Agency	
Reference Numbers						
Ref. Type Court Case Number			Ref. Number 19PE-CC00278			
People To Be Served						
Person Details SMITH JOHN Sex: Unknown Race: Unknown DOB: (Age)					Status No Service - Subject Not Located	Role Respondent
Service Address US-52 LEBANON, IN 46052						
Is Billable Yes	Attempts 0	Billable Attempts 0	Mileage 0			
Mileage Fee .00		Misc Fee .00	Service Fee .00		Total Fees \$0.00	
Fee Comment:						
Log						

ADDRESS LISTED IS A PRIVATE
GOLF COURSE -
THEY KNOW NOTHING OF
John R. Smith

Certificate of True Copy

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Clerk

Clerk of the Circuit Court

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COURT SEAL OF



PEMISCOT COUNTY


66111



IN THE 34TH JUDICIAL CIRCUIT, PEMISCOT COUNTY, MISSOURI

Judge or Division: WILLIAM EDWARD REEVES	Case Number: 19PE-CC00278	RECEIVED SEP 9 2019 BOONE COUNTY SHERIFF'S OFFICE MICHAEL T. NIELSEN, SHERIFF (Date File Stamp)
Plaintiff/Petitioner: BOBBY DAVIS	Plaintiff's/Petitioner's Attorney/Address: WENDELL LOUIS HOSKINS II 404 WARD PO BOX 1115 CARUTHERSVILLE, MO 63830	
Defendant/Respondent: JOHN R SMITH & USA TRUCK, INC.	Court Address: Pemiscot Court House 610 Ward Avenue P.O. Box 34 CARUTHERSVILLE, MO 63830	
Nature of Suit: CC Pers Injury-Vehicular		

Summons for Personal Service Outside the State of Missouri
(Except Attachment Action)

The State of Missouri to: JOHN R SMITH Alias: 3887 NORTH US HWY 52 LEBANON, IN 46052  COURT SEAL OF PEMISCOT COUNTY	You are summoned to appear before this court and to file your pleading to the petition, copy of which is attached, and to serve a copy of your pleading upon the attorney for the plaintiff/petitioner at the above address all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to file your pleading, judgment by default will be taken against you for the relief demanded in this action. 08/27/2019 _____ Date Clerk
Further Information:	
Officer's or Server's Affidavit of Service I certify that: 1. I am authorized to serve process in civil actions within the state or territory where the above summons was served. 2. My official title is _____ of _____ County, _____ (state). 3. I have served the above summons by: (check one) <input type="checkbox"/> delivering a copy of the summons and a copy of the petition to the defendant/respondent. <input type="checkbox"/> leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with _____, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent. <input type="checkbox"/> (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title). <input type="checkbox"/> other: _____ Served at _____ (address) in _____ County, _____ (state), on _____ (date) at _____ (time). Printed Name of Sheriff or Server _____ Signature of Sheriff or Server _____ Subscribed and sworn to before me this _____ (day) _____ (month) _____ (year). I am: (check one) <input type="checkbox"/> the clerk of the court of which affiant is an officer. <input type="checkbox"/> the judge of the court of which affiant is an officer. <input type="checkbox"/> authorized to administer oaths in the state in which the affiant served the above summons. (use for out-of-state officer) <input type="checkbox"/> authorized to administer oaths. (use for court-appointed server) (Seal) _____ Signature and Title _____	
Service Fees Summons \$ _____ Non Est \$ _____ Mileage \$ _____ (_____ miles @ \$ _____ per mile) Total \$ _____	
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